THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.7564 OF 2006

DATED: 17-04-2006

BETWEEN

Balabhadruni Pullam Raju,

S/o. Late Bulli Kama Raju,

R/o. Kakinada,

East Godavari District.

...PETITIONER

AND

Kakinada Municipal Corporation

Rep. by its Commissioner,

Kakinada, East Godavari District

and another.

...RESPONDENTS

ORDER:

This writ petition is filed to declare the action of the respondents in attempting to demolish the building bearing Old Door No.28-1-27, New Door No.28-1-22/1, situated at Main Road, Kakinada, East Godavari District without following the procedure of law as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner is the owner of the aforementioned premises having purchased the same under registered sale deed dated 06.03.2006 and has been paying taxes regularly to the first respondent. While so, the

petitioner came to know that the buildings were being demolished for road widening and the respondents gave a marking to the building of the petitioner stating that they will demolish the same to a width of 10 feet.

The respondents with a view to ease the traffic congestion and thereby ensure free flow of traffic have taken up the job of road widening on all the main roads of Kakinada. He further submits that the building of the petitioner is situated in his own site and there is no encroachment and there are no deviations.

The main grievance of the petitioner is that the respondents have not issued any notice before deciding to demolish the said building and the respondent corporation is trying to demolish the building for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporation Act or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act, which is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,

the respondents are directed not to demolish the structures of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

April 17, 2006

Note: Furnish C.C. of the order by 19.04.2006

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DSK